

**WILLIAMSBURG CITY COUNCIL
MARCH 10, 2005
MINUTES**

The Williamsburg City Council held its regular monthly meeting on Thursday, March 10, 2005, at 2:00 p.m., in the Theater of the Williamsburg Regional Library on Scotland Street.

ATTENDANCE

Present were Ms. Zeidler, Messrs. Haulman, Scruggs, Chohany and Freiling. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Clayton, Hudson, Nester, Serra, Weiler, Yost, and Assistant City Manager Miller.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Mr. Haulman Moved that City Council Approve the Minutes of February 7, 10, and Special Meeting of February 16, 2005. The Motion was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

SPECIAL PRIVILEGE

The Mayor explained that the Council meeting was moved from the Stryker Building to the Library Theater because the hazardous material found in the Council Chambers was still being cleaned up.

Chief Weiler provided an update on the situation and said that the Environmental Protection Agency, Department of Environmental Quality, Virginia Department of Environmental Health, Virginia Department of Emergency Management and Peninsula Health Department are involved in the mitigation of the mercury, and the Federal Bureau of Investigation is investigating the incident. At last sampling, mercury vapors were still present in the Council Chambers. Chairs and carpet have already been removed and the next step will be to pull up the wooden floor. Chief Weiler was not certain when the clean up would be completed. The Chief noted that all offices in the Stryker Building are being monitored.

Declaration of Local Emergency, Proposed Resolution #05-04

Mr. Tuttle informed Council members that on March 7, 2005, 1200 hours, he declared a local emergency due to the occurrence of the mercury spill and to deal effectively with the condition. The declaration, with Council's confirmation, would provide for assistance in mitigating the spill and for reimbursement of incurred expenses.

Mr. Scruggs Moved That City Council Adopt Resolution #05-04, Declaration of Local Emergency. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

(See Attached Adopted Resolution #05-04)

PUBLIC HEARING

Quarterpath Road Neighborhood Redevelopment Project Comprehensive Community Development Grant Application, Proposed Resolution #05-03

Reference for this report was Mr. Tuttle's report dated March 3, 2005, which included a copy of the proposed resolution.

Ms. Miller provided Council with a Powerpoint presentation on the Quarterpath Road Neighborhood Redevelopment Project. Part of the city's goal for Neighborhoods and Housing was to protect and enhance the quality of residential neighborhoods and encourage the provision of affordable housing. This project will remove blight and provide affordable housing in the city. A map of the area proposed for redevelopment was reviewed as well as photographs of existing conditions in the Roses Trailer Park. The project includes rehabilitation of residential units, acquisition of six properties, and clearance of 40 mobile homes. Relocation assistance and infrastructure improvements are included in the redevelopment which will provide new single family affordable housing, age-restricted apartments, and townhouse units. Estimated cost of the project is \$4,996,030, with the city's contribution being \$1.5 million. Meetings have been held with the current residents to explain the project and relocation process. The grant application is due March 23, 2005, and notification of the grant is expected this summer. (See attached presentation materials.) Ms. Miller introduced Ken Poore of K.W. Poore and Associates, the consulting firm working with the Housing Authority on the redevelopment project.

Mr. Poore said that this redevelopment project is authorized under Title 36 of the State Code, and that the Housing Authority would implement the project on behalf of the city. Mr. Poore said that the city's position was conveyed to current occupants and property owners. The city is interested in providing affordable housing, financial assistance, and removing substandard housing. If the grant is approved and the project moves forward, residents would receive the benefits of the Relocation Assistance Act which includes assistance with rental costs, moving expenses, relocation, finances, and new housing. Mr. Poore said that mixed responses were received from residents. Some people looked at this as an opportunity and some just do not want to move.

Mayor Zeidler opened the public hearing.

Mr. Chris DuVal, DuVal Associates, Realtors, representing Mr. Lackey Paparis, owner of Roses Trailer Park, informed Council that a Virginia Beach Developer has presented a Letter of Intent to purchase this property, which was accepted by Mr. Paparis, but not yet signed. The offer was in excess of \$3 Million. Mr. DuVal said that Mr. Paparis understands the city's goal for this property. Current residents of Roses Trailer Park will receive a six months notice to vacate the property, and relocation assistance will be available to current residents by DuVal Realtors. He thanked Council members.

Katherine Sayle, 217 Felix Drive: Mayor Zeidler said that she received an e-mail message from Ms. Sayle, stating she was in favor of the grant because it will benefit the residents of the community.

No one else wished to speak. The hearing was closed.

Mr. Haulman, Council's representative on the Housing Authority Board, said that the offer to purchase the property was interesting news. Council should proceed and approve this request in the event that the proposed purchase does not happen. It is exciting that the private sector is interested in improving the city and he hoped that the development would include low and moderate income housing. He looked forward to hearing the details.

Mr. Haulman Moved That City Council Adopt Resolution #05-03 Authorizing the Preparation and Filing of An Application for Community Improvement Grant Funds for the Quarterpath Road Neighborhood, Including Roses Trailer Park, With the Provision That If This Property is No Longer Available to the City, the Grant Process Would Conclude. The Motion Was Seconded by Mr. Scruggs.

Mr. Phillips commented that should the city receive approval of this grant, and if the private contract on the property does work out, then the grant process would not proceed. He recommended that Council move forward with the grant application.

Discussion:

Mr. Chohany hoped that the close relationship between Mr. Paparis and residents of Roses would continue, and that Mr. Paparis would be supportive of the residents.

Mr. Scruggs said that some years ago, he resided at the trailer park and owned a trailer. The trailer park serves as transitional housing for people with low to moderate income levels.

Mr. Nester and Mr. Scruggs briefly discussed the Comprehensive Plan residential land use designation for this area, the zoning, and the density allowed. Mr. Scruggs hoped that the development of this property succeeds for Mr. Paparis, but that there was no harm in proceeding with the grant application because of the timing issue.

Ms. Miller replied to Mr. Freiling that if the grant application is not approved, the project would not move forward. Mr. DuVal responded to Mr. Freiling that Mr. Paparis put this property on the market in January, and should the current contract fail, there are other investors that are interested. Mr. Freiling agreed with Mr. Haulman's comments and hoped that the purchaser of this property would consider that private development will not be as generous to residents as the CDBG. He hoped that the developer would consider the needs of the residents.

Mr. DuVal said he could not comment on how the property will be developed by the purchaser, but that a study is underway and that the developer plans to meet with the city as soon as possible.

The Mayor commented that improving housing in this area has been a goal of the city and she echoed the comments of her fellow Council members. She hoped that residents would receive assistance from the developer with relocation, temporary housing, and the opportunity to continue to live in the neighborhood. She hoped that affordable housing will be part of the private development.

Ms. Miller said that should the grant application be approved in June or July, it would take an additional six to eight months before the project starts. If the grant is not approved, it could be resubmitted at a later time.

Mr. Poore confirmed that besides the grant program, no other government programs exist to assist residents.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

(See Attached Adopted Resolution #05-03)

REPORTS

Monthly Financial Statement

The Monthly Financial Report was received and ordered filed.

Monthly Departmental Operating Reports

The Monthly Departmental Operating Reports were received and ordered filed.

City Manager Reports

Request of Williamsburg Redevelopment & Housing Authority to acquire Property at 104 Braxton Court and 300 Watson Drive, Strawberry Plains

Reference for this item was Mr. Tuttle's report dated March 3, 2005. Mr. Tuttle explained that the Housing Authority needs Council's authorization to acquire the property located at 104 Braxton Court and 300 Watson Drive in Strawberry Plains. The Authority is also requesting that the city provide temporary funding in the amount of \$150,000 for acquisition of 104 Braxton Court. The property on Braxton Court will be rehabilitated with CDBG funds and sold to an owner occupied family. The property at 300 Watson Drive will be acquired under "Right of First Refusal" and resold to a low to moderate income, owner occupied family. Mr. Tuttle asked for approval as recommended in his report.

Mr. Haulman, Council's representative on the Housing Authority Board, said that these acquisitions are part of the long term effort to rehabilitate structures in the city and are owner-occupied houses. They are consistent with the Housing Authority's and city's long term goals. He recommended that Council approve this request.

Mr. Chohany Moved That City Council Authorize the City Manager and City Attorney to Work with Williamsburg Redevelopment and Housing Authority to Provide Temporary Funding for the Purchase of the Single Family Home Located at 104 Braxton Court. Further, that City Council Authorize the Williamsburg Redevelopment and Housing Authority to Repurchase the Single Family Home Located at 300 Watson Drive, Strawberry Plains for the Purpose of Reselling the Home to a Low to Moderate Income, Owner Occupied Family. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Request to Authorize the Publication of Notice of Public Hearing and Solicitation of Bank Proposals for General Obligation Bonds, Proposed Resolution #05-02

Reference for this item was Mr. Tuttle's report dated March 3, 2005, and a copy of the Public Hearing Notice.

Mr. Serra reviewed the information provided in his report. At the February 12th City Council Retreat, the city's financial advisor, David Rose of Davenport & Co., presented a financing strategy. Mr. Rose reviewed an analysis of the City's five-year CIP, the impact of those projects on the City's financial condition, and key financial ratios. Mr. Rose is recommending that the City pursue borrowing funds for two City projects: (1) Refinance the existing \$4.5 Million short-term note used for partial construction of the Prince George Parking Garage and (2) Borrow \$4 Million for the City's share of construction costs of the Third High School.

Mr. Serra asked that Council authorize a public hearing on the general obligation bond, and authorize Davenport to issue an RFP for the refinancing of \$4,500,000 and the city's share of construction of the third high school, \$4,000,000. Mr. Rose has recommended that the city pursue refinancing at this time while interest rates were low. If favorable bank rates are received, it is proposed that Council would consider the bond and refinancing at its April 14 meeting.

Mayor Zeidler commented that the city has the benefit of this sound financial advice from Davenport and this action is consistent with that advice.

Mr. Serra replied to Mr. Scruggs that the money for the third high school would be put into escrow and paid over the next two years as the school is being constructed.

Mr. Scruggs Moved That City Council Approve Resolution #05-02, Authorizing Publication of Notice of Public Hearing with Respect to the Proposed Issuance of a General Obligation Bond to Refinance A Note which Financed Construction of the Prince George Parking Garage and to Finance Construction of A New High School and Authorizing Solicitation of Bank Proposals. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

See Attached Adopted Resolution #05-02)

High Street Agreement Amendments

Reference for this item was Mr. Tuttle's report dated March 9, 2005. Mr. Tuttle reported that Roseland Property Company was ready to move forward on High Street. He provided Council with a summary of the contract amendments:

- p.1) Remove reference to acquiring the BB&T parcel now that it has been bought.
- p. 2/3) Change the Project Phases to put most of the retail and residential in Phase I for \$7,790,000. Phase II is the theatre location for \$1,200,000. Phase III the remaining retail and residential for \$2,560,000. Require retail concurrent with residential construction. Allow entry on to property.
- p. 4) Match purchase price to new phasing.

- p. 5) Make theatre a contractually “important,” rather than “necessary” component for the project. Remove reference to Chrysler and BB&T conditions.
- p. 5/6) New condition to increase residential from 10 to 12 units per net acre.
- p. 7/8) Remove reference to Study Period. Deposit is no longer conditional on a Study Period. Establish outside dates for submittal of plans (August 1, 2005 for Phase I), closing dates for each phase, and extensions.
- p. 9) Allow for assignment, removing specific reference to Poag and McEwen.
- p. 9-11) Provide Community Development Authority and Tax Increment Financing structures for public improvements and parking terrace.
- p. 11/12) Reiterate conditions for closing.

Mr. Tuttle reviewed a drawing of the proposed site plan showing the layout of theater, retail shops, apartments, townhouses, condominiums, and parking, but noted that the plan is still evolving. A two-level parking terrace has been added to the plan, and some surface parking removed. Mr. Tuttle reviewed a drawing depicting building massing and layout.

Dan Aston of Roseland reported two significant updates on the project.

1. Roseland entered into an agreement with Advantis Real Estate Services Company to represent Roseland in retail leasing. Advantis is a Hampton Roads based company.
2. Roseland just reached an agreement with Cinemark Theaters for a 12-screen theater in High Street.

Mr. Aston said that Roseland is actively working on development of High Street. The property entrance site has been cleared and their retail and residential architects and civil engineers have been engaged. Roseland’s goal is to start construction as soon as possible.

Mayor Zeidler was pleased to hear the announcement regarding the theater. The city has been working on this project for many years. This plan is consistent with the desires of the citizens and the High Street Focus Group. It is a quality project with an urban feel, and a new neighborhood with mixed use development. She appreciated Roseland’s commitment to the project and their financial backing to make High Street work. She will vote in favor of the amendment.

Mr. Haulman echoed the Mayor’s comments. This proposal is a further iteration of this ongoing process. The changes are consistent with the broad agreement of this Council and of the previous Council. He supported the project and cited the following reasons:

- It is done right and has the look and feel that the city desires.
- It is urban and creates a neighborhood.
- The parking terrace uses the sloped topography and parking now takes less surface area.
- The parking is consistent with the downtown area.

- It has walking trails and a large lake.
- The retail and commercial components are the heart of the development.
- Local businesses will be provided the opportunity to expand.
- The national cinema company will show first run films.
- High Street will happen, and this insures it will move forward, and in a way that is best for the city and the community.
- The increased density will spill over for development and redevelopment in the area. It will spill over onto Richmond Road, and will have critical spillover to the two area shopping centers.
- The city gives Roseland additional density and provides the funding mechanism for the parking garage.
- Roseland is taking some risk on the commercial side. This keeps the broad vision of our community's future in view, and for the long term vision, High Street plays a critical role that will help insure the vitality of our city now and for years to come.

Mr. Aston and Mr. Tuttle answered Mr. Chohany's questions regarding the 285,000 sq. ft. retail component, the Community Development Authority, Tax Increment Financing, the bond to build the parking terrace, and the density change from ten to twelve units per acre in the ED district. Mr. Chohany was pleased that the theater agreement had been reached and he liked the layout of the development. It has a friendlier feel and uses less asphalt. He appreciated Jim Tucker's input and his confidence in Roseland.

Mr. Scruggs was pleased that Roseland has stayed with the project and its challenges. He appreciated the citizens' patience. Roseland will provide a good "quality of product" and the development will be outstanding. The announcement concerning the theater was very important and he concurred with Mr. Haulman's comments.

Mr. Aston said that this project has been accelerated with the engineers and architects, and it was hoped that the project would start in 120 days. Mr. Tuttle said the site plan for Phase One was due August 1.

Mr. Freiling was concerned that the proposed change in density from ten to twelve units per acre for the ED district would affect a change in all ED districts. Mr. Tuttle agreed to look into the Special Use Permit process, and noted that the SUP might be workable, but would add another step in the process. Mr. Freiling noted he would like to see student-oriented shops in High Street to bring in students. He was very impressed with High Street and said that all developments should be like this one.

Mr. Phillips responded to Mr. Freiling that should a Community Development Authority be established, the residential portion of the funding would be of the nature of an upfront assessment, with no annual tax increase. The commercial part of the development would have additional tax levied each year, until the improvements are paid. An annual surtax would be levied on the CDA district. Mr. Freiling was impressed with the parking terrace and open space, the local retail component, and the unified theme for the development.

The Mayor commented that all of the Council members were pleased with this plan and with the quality of the proposal. She echoed Mr. Freiling comments. She thanked the citizens that volunteered on the High Street Focus Group, which was critical to this project.

Looking at other Roseland developments encouraged her confidence in the High Street development.

Mr. Tuttle said that there will be a Williamsburg Area Transport stop planned for the entrance.

Mr. Scruggs Moved That City Council Approve the Proposed March 2005 Amendment to the High Street Purchase Agreement. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

New Business

Central Absentee Precinct Ordinance Amendment, Proposed Ordinance #05-02

Reference for this item was Voter Registrar Dave Andrews's report dated February 28, 2005. Mr. Andrews explained that this is an amendment to activate the Central Absentee Voting Precinct during all elections, not just general elections. This is a technical change in the ordinance. It will be forwarded to the Department of Justice for pre-clearance approval.

Mr. Scruggs Moved That City Council Adopt Proposed Ordinance #05-02, An Ordinance to Amend Section 2-203 of Chapter 2, Article V, of the Williamsburg Code in Order to Change the Polling Location of the Central Absentee Voting Precinct from the Municipal Building to the Stryker Building and to Activate the Central Absentee Voting Precinct During All Elections. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None (See Attached Adopted Ordinance #05-02)

Appointment to the Architectural Review Board: Mayor Zeidler announced that City Council interviewed applicants for appointment to the ARB and subsequently appointed **Mr. Robert H. Lane** to the Architectural Review Board to fill the unexpired term of Mr. Terrance Durbin, the term to expire December 31, 2006. The appointment was made at the February 16, 2005 Special Meeting.

Appeal of Architectural Review Board Decision: Mayor Zeidler asked staff to develop a process to review the city's Design Review Guidelines. Mr. Tuttle said that Mr. Nester is looking at the process and will provide Council with a recommendation. Mr. Phillips said that any applicants for appeal of ARB decisions may ask for a deferral until after the review. He will work with Mr. Nester on a method of conveying this information to the applicants. Mayor noted that this is a review of the guidelines by the Planning Commission and ARB with input from citizens.

West Williamsburg Heights: Mr. Haulman said that he will meet with residents of WWH on April 11, to discuss residents' interest in either the right of first refusal or owner occupancy deed restriction. The residents may come to the April Council meeting.

OPEN FORUM

Mayor Zeidler invited comments

No one wished to speak. The session was closed.

CLOSED SESSION

Mr. Haulman Moved that City Council go into Closed Session pursuant to Section 2.2-3711 of the Code of Virginia for the purpose of discussing one property matter per subparagraph 3, regarding acquisition of property for watershed protection, of which discussion in an open meeting would adversely affect bargaining or negotiation strategy of public body. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 3:41 p.m. The Mayor called a five-minute recess.

At 4:03 p.m., Council met in Open Session.

Mr. Haulman Moved the Certification of Closed Meeting. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

CERTIFICATION OF CLOSED MEETING

Date: March 10, 2005

Motion: Mr. Haulman Second: Mr. Chohany

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the City Council that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

VOTE:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

Absent During Vote: None
Absent During Meeting: None

Purchase of Water Shed Property

Mr. Scruggs Moved That City Council Authorize the City Manager to Acquire the Property Located at 130 AAA Waller Mill Road, owned by Walter Lee (Map# 006-5, for an Amount Not to Exceed \$96,000 for Protection of the City's Watershed and Water Treatment Facility. The Motion Was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Haulman, Chohany

No: None

The meeting adjourned at 4:05 p.m.

April 14, 2005

Shelia Y. Crist
Clerk of Council

Jeanne Zeidler, Mayor